

Appln. No. 10/056,831
Amdt. dated February 9, 2007
Reply to Office action of December 1, 2006

REMARKS

5 Claims 1-17 are pending in this Application. By this Amendment, Claims 1, 7, 13 and 14 are amended. The amendments do not introduce new matter as they are fully supported by the Specification, Claims and drawings as originally filed. For example, support for the amendments of Claims 1 and 13 can be found in the Specification at page 7, lines 6 through 13; page 8, lines 5 through 11; and Figures 2-7. Support for the 10 amendment of Claim 14 can be found in the Specification at page 8, line 22 through page 9, line 3; and in Claim 7. The amendment to Claim 7 is to correct a grammatical error.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,389,080 to Yoon, U.S. Patent No. 5,441,486 to Yoon, U.S. Patent 15 No. 5,360,417 to Gravener, et al., or U.S. Patent No. 5,634,911 to Hermann, et al., as discussed in the previous Office action, and further in view of U.S. Patent No. 5,814,026 to Yoon or U.S. Patent No. 5,788,676 to Yoon. Applicant respectfully traverses this rejection because none of the cited prior art, either alone or in combination, discloses or suggests the claimed invention.

20 Amended Claim 1 is directed toward an access device in the form of a trocar having a cannula, a housing and a valve. The valve has properties for forming a first seal with the housing wall and a second seal with a surgical instrument when the surgical instrument is present in the trocar. The valve includes a gel material. The first seal is formed by direct contact between the gel material and the housing wall, and the

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second seal is formed by direct contact between the gel material and the surgical instrument when the surgical instrument is present.

Applicant respectfully submits that none of the cited art discloses a gel material in the valve with the gel being in direct contact with an instrument that is present in the 5 trocar to form a seal with the instrument. Instead, Yoon '080, Yoon '486, Yoon '676 and Yoon '026 each depict and describe a bladder filled with gel and the bladder positioned in the valve housing. In each of the Yoon patents, the bladder, not the gel, contacts the valve housing wall and the instrument. Gravener, et al. '417, similar to the 10 Yoon patents, discloses a valve assembly including a valve body, which is a bladder-type device that may be filled with gel. The valve assembly is configured to be placed in the valve housing of a trocar (Gravener, et al. '417 at column 6, line 67 through column 10, line 17). In this manner, the gel in Gravener, et al. '417 does not come in direct contact with either the valve housing wall or an instrument inserted into the trocar. 15 Hermann, et al. '911 depicts and describes a trocar having an inflatable membrane disposed therein and a gel positioned in the void between the trocar wall and the membrane. In this manner, the gel in Hermann, et al. '911 does not come in direct contact with an instrument inserted into the trocar.

Applicant respectfully submits that none of the cited art teaches or suggests having the gel in the valve directly contact an instrument that is present in the trocar to 20 form a seal with the instrument and there is nothing in the cited art that shows any motivation to have the gel directly contact the instrument to form a seal with the instrument. Based on the foregoing, Applicant respectfully submits that Claim 1 is

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allowable over the cited art. Applicant also respectfully submits that dependent Claims 2-6, which depend from independent Claim 1, are also allowable over the cited art.

Claim 7 is directed toward an access device in the form of a trocar having a cannula, a housing, a septum valve disposed in the valve housing, and a valve support 5 disposed between the septum valve and the housing to float the septum valve laterally from the axis of the trocar. The septum valve is adapted to form a first seal with a surgical instrument when the instrument is received into the trocar. The valve support includes a gel material. The floating properties of the valve support facilitate 10 maintenance of the first seal during off-axis insertion of the instrument or movement of the instrument relative to the housing.

Applicant respectfully submits that none of the cited art discloses a septum valve positioned in the valve assembly. Moreover, none of the valve assemblies of the cited art discloses, teaches or suggests having a valve support including a gel material with the valve support disposed between the septum valve and the housing to float the 15 septum valve laterally from the axis of the trocar and there is nothing in the cited art that shows any motivation to do so. Based on the foregoing, Applicant respectfully submits that Claim 7 is allowable over the cited art. Applicant also respectfully submits that dependent Claims 8-12, which depend from independent Claim 7, are also allowable over the cited art.

20 Amended Claim 13 is directed toward an access device in the form of a trocar having a cannula, a valve housing and a valve disposed in the valve housing along the axis of the trocar. The valve is adapted to form a seal with a surgical instrument when

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the surgical instrument is inserted through the valve housing and into the cannula. The valve includes a gel material. The seal with the instrument is formed by direct contact between the gel material of the valve and the surgical instrument when the surgical instrument is present.

5 Applicant respectfully submits that none of the cited art discloses a gel material in the valve and having the gel in direct contact with an instrument inserted into the trocar to form a seal with the instrument. Instead, as indicated above, Yoon '080, Yoon '486, Yoon '676 and Yoon '026 each depict and describe a bladder filled with gel and the bladder positioned in the valve housing. In each of the Yoon patents, the bladder, 10 not the gel, contacts the surgical instrument. Gravener, et al. '417, similar to the Yoon patents, discloses a valve assembly including a valve body, which is a bladder-type device that may be filled with gel. The valve assembly is configured to be placed in the valve housing of a trocar (Gravener, et al. '417 at column 6, line 67 through column 10, line 17). In this manner, the gel in Gravener, et al. '417 does not come in direct contact 15 with the surgical instrument inserted into the trocar. Hermann, et al. '911 depicts and describes a trocar having an inflatable membrane disposed therein and a gel positioned in the void between the trocar wall and the membrane. In this manner, the gel in Hermann, et al. '911 does not come in direct contact with an instrument inserted into the trocar.

20 As with Claim 1 above, Applicant respectfully submits that none of the cited art teaches or suggests having the gel in the valve directly contact an instrument inserted into the trocar to form a seal with the instrument and there is nothing in the cited art that

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shows any motivation to have the gel directly contact the instrument to form a seal with the instrument. Based on the foregoing, Applicant respectfully submits that Claim 13 is allowable over the cited art. Applicant also respectfully submits that dependent Claims 14-17, which depend from independent Claim 13, are also allowable over the 5 cited art.

On May 24, 2004, Applicant filed an Information Disclosure Statement, with a copy of one citation; the Information Disclosure Statement and citation are enclosed herewith. The Information Disclosure Statement is stamped as received by the OIPE on May 25, 2004. Neither the final Office action that was mailed on September 9, 2004 10 nor the present Office action includes a copy of the May 25, 2004 Information Disclosure Statement with the Examiner's initials or the Examiner's signature with the date that the citations were considered. Applicant respectfully requests that the Examiner consider the citations referenced in the May 25, 2004 Information Disclosure Statement, and initial and sign the Information Disclosure Statement accordingly.

15 Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner believes that a telephone conference with Applicant's attorney

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might expedite prosecution of the Application, the Examiner is invited to call at the telephone number indicated below.

Respectfully submitted,

APPLIED MEDICAL RESOURCES

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